

## SURROGACY AND ITS LEGAL ISSUES

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### ABSTRACT

**Introduction:** Surrogacy is a method of reproduction where the fertilized egg from another woman is implanted into surrogate's uterus or the surrogate may use her own egg and another men's sperm to become pregnant and after delivery surrogate women handover's the child to the infertile couple. **Aim:** The aim of this present study was to assess the knowledge and attitude regarding surrogacy among infertile couples in selected infertility clinics of Amritsar, Punjab. **Tool and methods:** A non-experimental research design used in the study. A structured knowledge questionnaire comprising of 18 questions and attitude scale regarding surrogacy comprising of 16 statements was used to collect the data from 100 infertile couples by using purposive sampling technique attending Satjot human and reproduction centre, KD hospital and infertility clinics, Amritsar, Punjab. **Results:** The results showed that among 100 infertile couples, majority (87%) had average knowledge followed by 11% had good knowledge and only 2% had poor knowledge regarding surrogacy. Regarding attitude majority (62%) of infertile couples had negative attitude and 38% had positive attitude. **Conclusion:** Regarding association of knowledge and attitude with selected socio demographic variables such as age, religion, educational status, family income was found to be statically non-significant whereas type of family, duration of marriage and number of attempt to infertility treatment was found to be statically significant at  $p < 0.05$ .

**Key words:** Knowledge, Attitude, Surrogacy, Infertile couples.

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## INTRODUCTION

This is a well-known fact, as this is the era of advancements and inventions which are continuously taking place in medical field and has greatly influencing the lives of human beings. Surrogacy, this subject is becoming special due to its challenges facing by surrogate mothers. Surrogacy itself is a promising treatment for infertility. This treatment has the potential to solve many difficulties facing by the infertile couples and their families. To become a mother is like a flowering process which is to be considered as fulfillment of life. It is counted as the most dignified moments and experience in life of a mother. Here, surrogacy has become a boon for the infertile couples.

Surrogate means 'Substitute' which means that surrogate mother is the substitute for the genetic-biological mother. In common language, surrogate mother is a person who is being hired to bear a child which she hands over to her employer or infertile couple after birth of the baby. In US the ratio of babies being deliver by surrogate mothers is approximately 750 babies each year by using gestational surrogacy. And if talk about Asia, particularly about India then Indian surrogates has become increasingly popular amongst intended parents. Gujarat, a hub of rent a womb has become eminent in India. Another estimate is that there is an average of 9 children that are born to surrogates in each state every year Conservative estimates shows that more than 25,000 children are now being born through surrogates in India and every year in an industry worth \$2 billion.

Surrogacy has mainly two types "traditional" and "gestational". "Traditional surrogacy is done by using artificial insemination where the surrogate is using her own eggs and another man's sperm" whereas "Gestational surrogacy is done via In Vitro Fertilization (IVF) where fertilized eggs from another woman are implanted into the surrogate's uterus". If we talk about Traditional surrogacy, it is done via artificial insemination where the surrogate is using her own egg or donor's gametes. It is used from many years and is still used by many couples as compare to gestational surrogacy. Artificial insemination is easy, pretty painless and significantly less expensive than in vitro fertilization there which is used in gestational surrogacy. There are good chances of success with traditional surrogacy. Second type, Gestational surrogacy is done via In Vitro Fertilization (IVF), where fertilized eggs from another woman are implanted into the surrogate's uterus. Most gestational surrogates believe that they would never be able to relinquish a child that they are genetically related to. Another reason that oppose for gestational surrogacy instead is that some people might feel comfortable with their children having half siblings out and about in the world.

### Benefits of surrogacy

Now the question is if surrogacy is profitable to all such as to surrogate mother, for infertile couples, surrogate agencies, surrogate baby. And the answer is up to somehow. Like if we observe keenly then surrogacy seems like an attractive alternative as a poor surrogate mother gets very much needed money, an infertile couple gets their long-desired biologically related baby and the country earns foreign currency, but the real picture reveals the bitter truth. Due to lack of proper legislation especially in India, both surrogate mothers and intended parents are somehow exploited and the profit is earned by middlemen and commercial agencies only. There is no transparency in the whole system, and the chance of getting involved in legal problems. If we look upon the problem of surrogate mothers, things are even worse and unethical. The poor, illiterate women of rural background are often persuaded in such deals by their spouse or middlemen for earning easy money. These women have no right on decision regarding their own body and life. In India, there is no provision of psychological screening or legal counseling.

### Legislation related to surrogacy (ART)

The Indian government has made legislation, its blueprint develop in 2008 and finally framed as ART Regulation draft bill 2010. The bill is still pending with Government and has not been presented in the Parliament. The bill acknowledges surrogacy agreements and their legal enforceability. There is great need to make an surrogacy agreement which covers all the issues both for the surrogate mother and for thr infertile couple and that agreement should be legally enforceable. Some of the features of proposed bill are that an authority at national and state level should be constituted to register and regulate the I.V.F. clinics and A.R.T centers, and a forum should be created to file complaints for grievances against clinics and ART centers. The age of the surrogate mother should be 21-35 years, and she should not have delivered more than 5 times including her own children as that can lead to increase in maternal mortality and morbidities rates. Surrogate mother would not be allowed to undergo embryo transfer more than 3 times for the same couple as this can also cause grave injuries to the reproductive system. If the surrogate mother is a married, the consent of her spouse would be required. A surrogate should be screened for STD, communicable diseases and should not have received blood transfusion in last 6 month as these may have an adverse bearing on the pregnancy outcome. All the expenses including insurance of surrogate medical bill and other reasonable expenses related to pregnancy and childbirth should be borne by intended parents. A surrogacy contract should include life

insurance cover for surrogate mother to save poor surrogate mothers from exploitation, banks should directly deal with surrogate mother, and minimal remuneration to be paid to the surrogate mother should be fixed by law.

The ART clinics should not be allowed to advertise for surrogacy for its clients, and couples should directly seek facilities of ART Bank. The intended parents should be legally bound to accept the custody of the child/children irrespective of any abnormality in the child/children. Confidentiality should always be maintained, and the right to privacy of the donor as well as surrogate mother should be protected. Sex-selective surrogacy should be prohibited, and abortions should be governed by the certified physicians who at least have conducted 25 MTP and have a diploma/degree certificate in obstetrics and gynecological nursing (Medical Termination of Pregnancy Act 1971)

#### DISCUSSION:

In this study an attempt has been made to discuss the findings of the study with the findings of other studies. The present study was conducted in selected infertility clinics of Amritsar, Punjab. Total sample was 100 infertile couples. Purposive sampling technique was used to collect the samples. The analysis of data regarding surrogacy knowledge among infertile couples revealed that 87% of the infertile couples had average knowledge whereas 11% were had good knowledge and only 2% were had poor knowledge regarding surrogacy. Regarding surrogacy attitude among infertile couples revealed that majority (62%) of infertile couples had negative attitude and only (38%) had positive attitude regarding surrogacy. The correlation between knowledge and attitude regarding surrogacy among infertile couples was found to be significant which means that as the knowledge of infertile couples increases the attitude also the same as vice versa. Association of knowledge and attitude regarding surrogacy among infertile couples with socio demographic variables as age, religion, education status, family income, type of family, duration of marriage, number of attempt to infertility treatment was found to be statistically non-significant at  $p < 0.05$ .

#### CONCLUSION

In India more than 12 million children are homeless and spending their lives in orphanages. But still infertile couples are opting towards surrogacy as adoption process is long and contain so many legal formalities which makes adoption a complicated process. The Guardian and Wards Act, 1890 permits Guardianship and not adoption. The Hindu Adoption and Maintenance Act, 1956 does not permit non-Hindus to adopt a Hindu child, and requirements of immigration after adoption have further hurdles. In the end I must say that There is a great need to make modifications in the adoption procedure to make it simple for all the couples who wants to adopt a child. In my opinion This will bring down the rates of surrogacy. Commercial surrogacy should not be promoted or even banned. There is availability of Laws to protect the rights of women and children to prevent them from physical and mental abuse.

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